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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,379	10/27/2000	Teresa Martineau	MS150499.1	6348
27195 7590 02/09/2009 AMIN, TUROCY & CALVIN, LLP 127 Public Square 57th Floor, Key Tower CLEVELAND, OH 44114				
EXAMINER				
FADOK, MARK A				
ART UNIT		PAPER NUMBER		
3625				
NOTIFICATION DATE		DELIVERY MODE		
02/09/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TERESA MARINEAU
and
ARNOLD N. BLINN

Application 09/698,379
Technology Center 3600

Mailed: February 6, 2009

Before PAMELA S. BENNETT, *Review Team Paralegal*.

BENNETT, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on September 22, 2008. A review of the Image File Wrapper (IFW) revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S ANSWER, GROUNDS OF REJECTION

Each grounds of rejection to be reviewed on appeal must be identified and any new grounds of rejection must be provided under a separate heading “New Grounds of Rejection” in the Examiner’s Answer and must include the approval of the TC Director or his/her designee. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 and 1207.03 (8th ed. Rev. 6, Sept 2007) for details.

While the Examiner’s Answer mailed February 25, 2008 agrees with the statement appearing on page 2 of the Appeal Brief filed November 21, 2007 which states, in part, that “[t]he rejection of claims 1-11, 41-49 is being appealed,” the Examiner’s Answer lists the “Grounds of Rejection” as follows:

Claims 1, 2, 5, 6, 7, 9, 10, 11, 41, 42, 45, 46, 47 and 48 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee (US 6,611,814) [page 4];

Claims 3, 4, 43 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Hsu (US 7,013,292) [page 6]; and

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of NetGift (a collection of articles and web pages see PTO 892, Netgift 1-Netgift7) [page 6].

It should be noted that the Final Rejection mailed June 21, 2007 and the Examiner’s Answer mailed February 25, 2008 do not appear to include a rejection for claims 8 and 44. Appropriate correction is required.

CONCLUSION

Accordingly, it is **ORDERED** that the application be returned to the Examiner:

- 1) to vacate the Examiner's Answer mailed February 25, 2008;
- 2) to issue a new Examiner's Answer setting forth the correct grounds of rejection and to revise other sections of the Answer as may be required;
- 3) if applicable, to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection)¹; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

PSB

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¹ In Technology Center 3600, only the Director may approve new grounds of rejection.